

Patent
Attorney's Docket No. 001580-500

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of

Robert R. ULRICH et al.

Application No.: 09/320,947

Filed: May 26, 1999

For: PATTERN AND COLOR
ABSTRACTION IN A GRAPHICAL
USER INTERFACE

Group Art Unit: 2772

Examiner: P. Nguyen



Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

In complete response to the Office Action dated February 17, 2000, favorable consideration and allowance of the subject application are respectfully requested. Claims 15-29 are currently pending.

Claims 15-29 stand rejected under the judicially created doctrine of double patenting over claims 1-5 of U.S. Patent No. 5,963,206. In Paragraph 2 of the Office Action, it is asserted that this rejection is a statutory type double patenting rejection. This rejection is respectfully traversed. Applicants respectfully submit that this rejection is improper.

A statutory double patenting rejection of a claim requires that the claims in the patent and claims in the application be drawn to identical subject matter. Clearly, claims 15-29 of this application and claims 1-5 of U.S. Patent No. 5,963,206 are not drawn to identical subject matter.

Moreover, the judicially created doctrine of double patenting, by its very nature, is not a statutory type double patenting rejection. MPEP § 804(2) clearly states that circumstances where a **nonstatutory** double patenting rejection is applicable are illustrated by the facts before the court in In re Schneller, 397 F.2d 350, 158 USPQ 210 (CCPA 1968), which case was cited

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